

FEB 26 2013



Adult Loss Of Hearing Association, Inc. **FCC Mail Room**

a support and advocacy organization

February 19, 2013

Marlene H. Dortch, Secretary.
Office of the Secretary
Federal Communications Commission
445 12th Street SW.,
Washington, DC 20554

Re: **CG Docket Nos. 13-24 and 03-123**
Misuse of Internet Protocol Captioned Telephone Service;
Telecommunications Relay Services and Speech-to-Speech Services
for Individuals With Hearing and Speech Disabilities

Comments on Behalf of Adult Loss of Hearing Association ("ALOHA")

Dear Secretary Dortch:

The Adult Loss of Hearing Association ("ALOHA") is pleased to submit these comments for the FCC's consideration in this matter dealing with Internet Protocol Captioned Telephone Service ("IP CTS") services, which are of great importance to many of our members.

We wish to address several issues, but after reading carefully FCC's Order and *Federal Register* publications, **our main point is this:**

We understand and we are sympathetic to FCC's concerns with the shortfall in the TRS Fund to finance services for those with a hearing disability and how important it is to avoid misuse of the Fund. We can offer only suggestions from our own experience to address some of the issues raised, but we urge FCC to appreciate IP CTS services are quite important to the hearing disabled and to move carefully so as "not to throw out the baby with the bathwater" by disrupting the availability of such services for those who now have them and rely on them and deserving future users.

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Hearing Rehabilitation & Resource Center

ALOHA

These comments are submitted by the Adult Loss of Hearing Association ("ALOHA"), a 501(c)(3) organization, based in Tucson, AZ. We have almost 300 dues paying members, but we say we represent the approximately 70,000 individuals in Pima County (Tucson is the County's largest city) which the Arizona Commission for the Deaf & the Hard of Hearing classifies as the hard of hearing population. Many hard of hearing individuals who aren't dues paying members come to our various programs and are gladly welcomed. ALOHA serves the entire Southern Arizona community of those with hearing disabilities. A good number of ALOHA members are current users of IP CTS service.

ALOHA is a nonprofit support and advocacy organization founded in 1984 to provide hearing loss services, and hearing help for hard of hearing or deaf adults, most of whom have lost their hearing later in life. These people were not deaf from birth, so they often have good speech, and they are ones who are likely users of IP CTS services. We provide such help as peer support, advocacy, and information and training to individuals with hearing loss, enabling them to improve their quality of life. ALOHA is the primary hearing related group of this sort in Southern Arizona. We have support groups not only in the immediate Tucson area, but also other southern Arizona communities including Green Valley, Oro Valley, and Sierra Vista.

To illustrate what we do, some of ALOHA's services include Speech Reading and Sign Language Classes; Inductive Loop demonstrations (and ALOHA's advocacy of the "Let's Loop Tucson" program); Cochlear Implant information (our "Desert Cochlear Connections" group meets throughout the year); mentoring; a weekly support group meeting; scheduling of demonstrations by suppliers of hearing related goods and services; outreach; and publication of a newsletter. Our website, www.alohaaz.org, further describes ALOHA and what it does.

ALOHA is especially well suited to comment on the FCC's proposal, because except for a single employee who works only a few hours each week, **all of ALOHA's work is done by volunteers**. We understand, perhaps more than other, far larger groups, the need to pay close attention to costs, which we understand is one issue with which FCC is concerned. We offer our comments with this keen understanding that assisting the hard of hearing is most important, but cost must enter into the discussion of providing services.

ALOHA's Comments

ALOHA has reviewed the FCC's Order; we understand there are both temporary new rules which are to become effective very soon, and at the same time FCC is proposing long-range rules. We best present ALOHA's views by addressing several of

the different issues raised in the FCC's notices which affect our members, without focusing on whether they relate to the immediate or permanent proposed rules.

The issues are complicated and interrelated; we offer our comments in no particular order.

1. To ALOHA, FCC's concerns seem valid, but we urge FCC to remember in dealing with these identified concerns that the end user of IP CTS services is often an elderly person who can be frightened away from using a needed service if too many conditions are imposed for its use. ALOHA members vary in such characteristics as age, mobility, and sophistication concerning new technology, but in general, it is fair to say many are elderly, many have only limited comfort with all "new" technology, and some have serious mobility problems. As one easy example, IP CTS service requires the user have a high-speed internet connection, which involves a meaningful expense (in some cases a prohibitive expense), and some who can afford it are not comfortable with installing and maintaining a high speed internet connection. These are very real concerns for some members. ALOHA understands FCC's discussion how the present system might lead to misuse of IP CTS services, but we don't think that is true of our members. We understand the need for measures to combat misuse, and we understand there is a balancing act which must be performed between easy availability and preventing misuse, but we ask FCC to try to impose as few additional requirements as possible which might dissuade some people who could benefit from IP CTS services from using services.

2. ALOHA doesn't know of misuse of IP CTS services, but in our experience, ALOHA members spend much effort just trying to obtain benefits and rights guaranteed to them by the ADA rather than trying to "game" the system. Perhaps because ALOHA is such a support-based group with so many volunteers or perhaps for some other reason, ALOHA from experience believes that its members understand they are receiving benefits to help them live more normal lives despite their hearing disabilities, and they don't misuse these benefits. Instead, ALOHA and its members must frequently advocate for benefits which the law says should be provided. As one example, ALOHA was one of the parties involved in a lawsuit against a major movie theatre chain which, despite requirements of the ADA, had continually refused to provide basic equipment to permit the hard of hearing to enjoy such a simple life activity as going to see the latest movie. Trying to obtain benefits which the law says must be provided but in practice are not provided is far more typical than abusing services which actually are provided.

Reading the FCC material, we understand IP CTS usage has apparently increased a great deal, but there don't seem to be any studies or specifics which show this is a result of a misuse of the program. ALOHA's knowledge of IP CTS use goes no further than our membership, but in our experience, instances of misuse of services such as IP CTS are very rare. In considering the issues involved, ALOHA urges the FCC not to paint the

hard of hearing community with too broad a brush; it may be that some changes need to be made in the program, but that shouldn't include criticism of the entire community.

3. ALOHA sees no reason to continue "Referral Fees," based on FCC's explanation. As a part of its mission, ALOHA tries to help educate the hard of hearing with services which may be available; we don't charge for our services. Eliminating "referral fees" would not affect ALOHA's role in educating members about IP CTS services. In recent years, ALOHA has received a minor amount in referral fees for suggesting our members sign up for IP CTS service. ALOHA has a very tight budget, but we always considered such amounts as "found money," and used it to meet immediate needs. We have never relied on it for our funding; for ALOHA, it would not affect us if it were discontinued, if this would be helpful for the long-term stability of the Fund.

4. ALOHA can accept "Self-Certification," with certain caveats. ALOHA understands the FCC's proposed self-certification for new users of more expensive (above \$75) units is an effort to reach a middle ground to provide some assurance units are going only to those who deserve them. However, we suggest FCC be aware of three points. (1) Self-certification is far better than certification by a hearing professional. Many ALOHA members are elderly, some have limited mobility; it would be a burden for them to make an appointment and travel to a hearing professional to be certified as an eligible IP CTS user, as explained further below. Self-certification should be used wherever possible. (2) We have found many ALOHA members, perhaps because they are elderly and are frequently lectured - often by government - not to share personal information, are very much concerned with personal privacy. FCC rules say they will require the service providers to keep these certifications confidential; perhaps FCC could modify its rule to require that when service providers prepare such "self-certification" forms, those forms include language on the form itself such as "FCC rules require this Certification remain confidential, except as required by law." That might alleviate some of the discomfort people might have at signing such forms. (3) Any certification is a burden, so the self-certification should be kept as simple as possible. For example, there is an Arizona program to make certain phones available to the hearing disabled at no cost to them, but many of our members have found that so much information and so many documents have to be provided to qualify, that the burden of dealing with the paperwork makes some qualified people pass up the opportunity to use such a free service.

5. ALOHA suggests "Professional Certification" not be required, or at most required only in the most limited circumstances. We understand the new rules will require those who obtain service units costing less than \$75 will be required to obtain some sort of "professional" certification that they actually need such service. We understand the FCC's explanation of the need for such a certification, but we are interested that those of our members who need IP CTS service can obtain it without an unreasonable burden. (1) For many elderly users, who would ordinarily see their audiologist or other hearing professional rarely (somewhere between once every year and

once every three years would be an "educated guess"), it would be *expensive* and *inconvenient* to schedule a separate appointment just to obtain this certificate. Those who try to obtain IP CTS units cheaply are likely those for whom the extra expense of obtaining a certification would be the greatest burden. We ask FCC to keep in mind that what may seem a simple requirement for those writing rules, in the real world, in which the hard of hearing already face so many burdens in their everyday lives, obtaining a certificate is far more of a burden than it might seem. (2) Whenever rules change, it takes some time for the new rules to filter down to the lowest level. Some of our members may see professionals in a larger, more sophisticated hearing-related professional practice group which would likely be up to date quickly on all the new rules, but many others see individual professionals, often with whom they have consulted for many years. These audiologists who work by themselves, as one example, may be and frequently are excellent with treating hearing issues, but it may take some time for many to get up to speed with all these new paperwork requirements (remember, even the most conscientious must keep up to date not only with these rules, but all other developments in the hearing field). Until the professionals catch up, their patients might be effectively barred from getting needed IP CTS equipment. (3) As ALOHA understands the rules, there are no objective standards for such a certification. Without objective standards, it would seem that the value of such a certification is far less than the burdens it would impose on many who would require such certification.

6. ALOHA believes if FCC adopts any "third party" certification, it should not include an objective standard, but rather a certification by the third party that the potential user needs the service. This position appears to be consistent with FCC's statement, "Most state equipment programs do not use quantified hearing loss criteria for determining eligibility to receive assistive devices. Instead, they usually require a general certification from an audiologist or other professional that the applicant has a disability preventing effective use of the telephone without the requested device" From experience, ALOHA believes professionals can adequately and properly make this determination in their own judgment.

7. If it decides to require certifications from existing users, FCC should allow at least six months, not the proposed 90 days for such certifications. As explained above, scheduling an appointment with a hearing professional solely for purposes of the certification is a burden in time, expense, and often a physical burden for the mobility impaired. It also imposes unnecessary stress on elderly users, who often find deadlines more stressful than the FCC might imagine. For the individual audiologist, this could result in scheduling conflicts, in which those who require hearing assisted services might be delayed so the audiologist can meet the time deadlines of this requirement. Finally, as a practical matter, it will take some time to develop an appropriate certification form and to have that form distributed through normal channels to hearing professionals, all of which will eat into the 90 day period, and make the actual time for compliance, much

shorter than 90 days. As ALOHA reads the various FCC documents, there is nothing which suggests that adding an additional 90 days for certifications would be harmful.

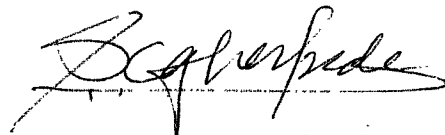
8. ALOHA generally opposes the idea of the default setting for equipment and software be "captioning off," but (and without any idea of the costs this might impose on equipment providers) this might be more acceptable than certifications by third parties. ALOHA understands the FCC's rationale for possibly requiring IP CTS providers to take steps to ensure their equipment and software have captions turned off as the "default" setting at the beginning of each call, so the user must affirmatively turn on the captions each time the user wants to use IP CTS.

FCC should understand there are other reasons than misuse for inefficiency. For example, if an IP CTS user undertakes the "ordinary" task of calling a bank or credit card company and is placed on "hold" for quite a while - which happens frequently - the IP CTS captioning must remain active, even during the period on hold. That sort of thing happens with great frequency in daily life. ALOHA points this out to suggest not every inefficient use of IP CTS service is the result of the captioning being "on" while the equipment is being used by one without a hearing disability.

Yet, if FCC believes this change is in the best interest of maintaining funding, ALOHA believes this is a reasonable alternative.

If ALOHA can be of further help to FCC in this important matter, we would be pleased to provide the FCC with whatever further information it might request.

Sincerely,



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